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**IN THE
COURT OF APPEALS OF INDIANA**

S.E.,)	
)	
Appellant-Respondent,)	
)	
vs.)	No. 37A03-0610-JV-453
)	
STATE OF INDIANA,)	
)	
Appellee-Petitioner.)	

APPEAL FROM THE JASPER CIRCUIT COURT
The Honorable John D. Potter, Judge
Cause No. 37C01-0603-JD-83

February 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

S.E. appeals from the dispositional order entered after she was adjudicated a delinquent for committing Sale of a Legend Drug, as a Class D felony when committed by an adult.¹ S.E. presents a single issue for our review, namely, whether the trial court abused its discretion when it ordered her to be committed to the Department of Correction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 1, 2006, S.E. attended a party at the home of A.U., a fifteen-year-old friend. At the party, S.E. offered A.U. some pills, A.U. accepted, and S.E. gave A.U. pink pills in a cellophane cigarette package. Later that day, the father of another youth reported to law enforcement that his son had been given drugs at the same party. A law enforcement officer interviewed A.U., who gave the officer the packet of pink pills from underneath her mattress. A.U. reported that S.E. had given her the pills.

The State filed a petition alleging that S.E. was a delinquent child because she had committed sale of a legend drug, as a Class D felony when committed by an adult.² On July 24, 2006, the trial court conducted a factfinding hearing and found S.E. to be a delinquent child as alleged in the petition. On September 1, 2006, the trial court held a

¹ “Sale” of a legend drug includes “dispensing, giving, delivering, or any other supplying.” Ind. Code § 16-42-19-8.

² The State originally alleged that the drug involved was Abilify, a drug used to treat schizophrenia and bipolar disorder. At the initial hearing, the petition was amended by interlineation to allege that the drug was Klonopin. At the factfinding hearing, the State conceded that the amendment was based on S.E.’s anticipated admission to the charge, which had not, in fact, come to fruition. As a result, the parties agreed to amend the petition back to its original form by stating that the drug involved was Abilify.

dispositional hearing. After considering the report of the Jasper County Probation Department, the trial court ordered S.E. committed to the Department of Correction (“DOC”) until the age of twenty-one or until earlier release by the DOC. S.E. appeals.

DISCUSSION AND DECISION

S.E. contends that the trial court abused its discretion when it entered the dispositional order. In particular, she argues that the trial court should have ordered a less restrictive alternative placement than commitment to the DOC and that the commitment order fails to meet Indiana’s goals of “‘ensur[ing] that children (in the system) are treated as persons in need of care, protection, treatment, and rehabilitation’ and to ‘promote public safety and individual accountability by the imposition of appropriate sanctions.’” Appellant’s Brief at 5 (citations omitted). We cannot agree.

We reverse a dispositional order only for an abuse of discretion, namely a decision that is “clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.” K.S. v. State, 849 N.E.2d 538, 544 (Ind. 2006). The specific disposition of a delinquent is within the juvenile court’s discretion, to be guided by the following considerations: the safety of the community, the best interests of the child, the least restrictive alternative, family autonomy and life, freedom of the child, and the freedom and participation of the parent, guardian, or custodian. Ind. Code § 31-37-18-6. Under that statute, placement in “the least restrictive (most family[-]like) and most appropriate setting available” applies only “[i]f consistent with the safety of the community and the best interest of the child.” Id.

Here, S.E. was adjudicated a delinquent after the trial court found that she had committed sale of a legend drug, as a Class D felony if committed by an adult. S.E. maintains that the probation department predispositional report recommended that she be committed for a short period to the Muncie Reception and Diagnostic Center and then released to the custody of her mother. But the predispositional report actually recommends commitment to the DOC until the age of twenty-one, unless released earlier by the DOC, with all but ten days suspended. The report also recommends the placement indicated by S.E., followed by one year of probation, with other specified conditions.

Nevertheless, the record shows that S.E. had a juvenile history, including a 2004 act of criminal conversion and a 2005 act of truancy. At the time of the disposition hearing, she also had pending delinquent acts of operating a motor vehicle without a license, possession of marijuana, and operating a motor vehicle while intoxicated. In 2006, S.E. was under treatment for depression but failed to keep or reschedule appointments and did not take her prescribed medication. Further, the probation department predispositional report indicates that S.E. lived with her grandmother, was left largely unsupervised and undisciplined, had disciplinary referrals in public high school, had withdrawn from public high school and an alternative school, did not like being told what to do, and did “pretty much . . . what she want[ed].” Appellant’s App. at 69. S.E. also reported to the probation officer that she would not stay away from her boyfriend, follow the rules, or attend drug and alcohol classes, even though she knew that her statements would be communicated to the court. Finally, at the dispositional hearing,

S.E. wore a D.A.R.E. shirt, and she laughed when the trial court mentioned the shirt and S.E.'s pending charges, including a drug offense.

In the disposition order, the trial court found that, “[d]ue to the seriousness of the delinquent act, a period of commitment is warranted and may assist in the rehabilitation of the child.” Appellant’s App. at 6. In view of S.E.’s prior juvenile history, her failure to respond adequately to prior attempts at rehabilitation, her cavalier attitude toward rules and the juvenile process, and the increasingly serious charges that accumulated after the underlying act, the disposition ordered by the trial court is quite consistent with her best interest and the safety of the community. We find no abuse of discretion.

Affirmed.

MAY, J., and MATHIAS, J., concur.